IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 3836 of 2007(F)

PETITIONER:

BABU THOMAS, HIGH SCHOOL ASSISTANT
GOVT.GIRLS HIGH SCHOOL, WANDOOR,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS:

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1. THE HEAD MASTER, GOVT.GIRLS HIGH SCHOOL, WANDOOR, MALAPPURAM DISTRICT.

2. THE DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM.

3. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, GENERAL EDUCATION DEPARTMENT GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SMT. M.R. SREELATHA;

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 3836/2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE JUDGMENT OF THIS COURT DATED 20.1.2003 IN O.P. NO.15779/2000.

EXT. P2 : TRUE COPY OF THE REPRESENTATION DATED 3.7.2006 OF THE PETITIONER TO THE 1ST RESPONDENT.

EXT. P3 : TRUE COPY OF THE REPRESENTATION DATED 14.7.2006 OF THE PETITIONER TO THE 2ND RESPONDENT.

EXT. P4 : TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 28.11.2006.

K.M.JOSEPH, J.

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WP.(C) No. 3836 OF 2007

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Dated this the 14th day of March, 2007

JUDGMENT

Case of the petitioner is as follows:

He entered service as HSA in the scale of pay of Rs.780-1320. His further case is that he had worked as HSA on provisional basis in the scale of pay of Rs.420-720 at various spells for a total period of two years, nine months and 25 days. Petitioner relied on Government decision No.2 under Rule 33 of Part I KSR. Petitioner relies on the decisions reported in **Hussain v. Kerala Water Authority** (1996(2) K.L.T. 555) and in **Jose Jacob v. State of Kerala** (1998(2) K.L.T. 873). By Ext.P4 the representation submitted by the petitioner has been rejected by the Deputy Director. A perusal of Ext.P4 would show that the Deputy Director has taken the view that the decision in O.P. 15779 of 2003 relied on by the petitioner is applicable only in the case of Sri.V. Aboobacker, the petitioner therein. Therefore unless there is a Government decision of general application, it is not possible to issue an order in the case of the petitioner, it is stated.

2. Heard Government Pleader also.

3. I do not think that the view taken by the Deputy Director is legal. The Deputy Director should have to consider whether the principle in the case relied on by the petitioner is applicable to the facts of the case of the petitioner. If it is applicable, it is not open to the Deputy Director to deny the benefit of the principle established by this court in that judgment to the petitioner on the ground that in that case the judgment related to the petitioner in that case.

Accordingly Ext.P4 is quashed and the second respondent will reconsider the matter with an opportunity of hearing to the petitioner and take a decision thereon in accordance with law within a period of two months from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.